

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**ISAIAH SMITH, ON BEHALF OF
HIMSELF AND ALL OTHERS
SIMILARLY SITUATED,**

Plaintiffs

v.

MV TRANSPORTATION, INC.,

Defendant

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CIVIL NO. 1:21-CV-349-LY-SH

ORDER

Now before the Court are Douglas B. Welmaker’s Motion to Withdraw, filed September 2, 2022 (Dkt. 24); Defendant’s Motion to Strike Plaintiffs’ Response to Defendant’s Motion to Enforce Settlement Agreement and Sanctions against Isaiah Smith, filed October 27, 2022 (Dkt. 39); Plaintiffs’ Motion for Protective Order, filed January 13, 2023 (Dkt. 47); Defendant’s Motion to Compel Discovery Responses, filed January 20, 2023 (Dkt. 49); and the associated response and reply briefs.¹

The Court held a hearing on the motions on February 16, 2023. As stated on the record at the hearing, the Court hereby enters the following Order:

1. The Court **takes under advisement** Douglas B. Welmaker’s Motion to Withdraw (Dkt. 24). Defendant MV Transportation, Inc. and Nicholas J. Wagoner, on behalf of the plaintiffs he represents, each have until **March 8, 2023** to file supplemental briefs of no more than ten pages addressing Mr. Welmaker’s proposal at the hearing to represent the thirteen plaintiffs not currently represented by Mr. Wagoner.

¹ On February 3, 2023, the District Court referred all pending and future nondispositive and dispositive motions to this Magistrate Judge for disposition and report and recommendation, respectively, pursuant to 28 U.S.C. § 636(b)(1), Federal Rule of Civil Procedure 72, and Rule 1 of Appendix C of the Local Rules of the United States District Court for the Western District of Texas (“Local Rules”). Dkt. 54. Defendant’s Motion to Enforce Settlement Agreement and Request for Sanctions Against Plaintiff Isaiah Smith (Dkt. 22) will be taken up in due course.

2. Defendant's Motion to Strike Plaintiffs' Response to Defendant's Motion to Enforce Settlement Agreement and Sanctions against Isaiah Smith (Dkt. 39) is **GRANTED**. The Clerk of Court is ordered to **STRIKE** Plaintiffs' Response (Dkt. 38) from the record. Plaintiffs may file a revised Response that complies with the Local Rules by **March 8, 2023**, and Defendant may file a Reply as provided in the Local Rules

3. Plaintiffs' Motion for a Protective Order (Dkt. 47) is **DISMISSED** as **MOOT**.

4. The Court **takes under advisement** Defendant's Motion to Compel Discovery Responses (Dkt. 49). Defendant is **ORDERED** to file a copy of its discovery requests to Mr. Wagoner as an additional exhibit to its Motion to Compel by **February 24, 2023**. At the hearing, Defendant **WITHDREW** Request for Production No. 12 to Mr. Welmaker, and Mr. Wagoner represented to the Court that he is not instructing Mr. Welmaker not to answer Defendant's discovery requests. Accordingly, Mr. Welmaker shall serve amended responses to Defendant's Requests for Production and Interrogatories by **March 24, 2023**, and Defendant is **ORDERED** to file an advisory by **April 7, 2023** informing the Court whether any of the issues raised in its Motion to Compel have been resolved.

SIGNED on February 21, 2023.



SUSAN HIGHTOWER
UNITED STATES MAGISTRATE JUDGE